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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

ASHIFA KASSAM,

Plaintiff and Appellant,

v.

NORTH TERN et al.,

Defendants and Respondents.

B205348

(Los Angeles County
Super. Ct. No. SC092788)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Jacqueline A. Connor, Judge. Affirmed.

Law Offices of Rafik Y. Kamell and Rafik Y. Kamell for Plaintiff and Appellant.

Morris Polich & Purdy, Richard H. Nakamura Jr., Dean A. Olson and

Rahul Sethi for Defendants and Respondents.

Plaintiff and appellant Ashifa Kassam appeals from an order of dismissal following the sustaining of a demurrer without leave to amend her first amended complaint against defendants and respondents North Tern, LLC, Mary Thorndale, and Veronica St. Clair. We conclude that Kassam has provided this court with no legal basis for reversal, and therefore affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On November 20, 2006, Kassam signed a lease agreement, renting an apartment from defendants. She moved into the apartment on December 1, 2006 and moved out on December 5, 2006. Kassam contends the property was not as represented, and was in fact dirty, unsafe, and malodorous. After she moved out, she brought suit against defendants, seeking damages for breach of contract, intentional misrepresentation, and other causes of action.

The operative complaint is Kassam's first amended complaint, filed July 31, 2007. Defendants demurred to this pleading on August 22, 2007, setting the hearing on their demurrer for September 24, 2007. Kassam was required to file her opposition nine court days prior to the hearing. (Code Civ. Proc., § 1005, subd. (b).) As September 24, 2007 was a Monday, the opposition was to be filed by September 11, 2007. Kassam did not file her opposition on this date. Instead, she filed it one week later on September 18, 2007, a mere four days prior to the hearing. The opposition was neither preceded nor accompanied by a request for leave to file a late opposition.

The hearing was held on September 24, 2007. At the hearing, the trial court announced that it did not consider the untimely opposition. Kassam has declined to

designate a reporter's transcript on appeal; therefore, there is nothing in the record indicating that Kassam opposed this determination in any way. The trial court then adopted its tentative ruling sustaining the demurrer without leave to amend. The court's minute order is specific, addressing each cause of action in the first amended complaint on its merits. While the court concluded Kassam did not state a valid cause of action in her first amended complaint, the court noted that Kassam could conceivably state a cause of action for failure to return her security deposit in full. However, since that cause of action could seek no more than \$562, it would belong in small claims court.

Kassam filed a notice of appeal. Although the notice of appeal predated the court's eventual entry of an order of dismissal, we treat it as filed immediately after the dismissal. (Cal. Rules of Court, rule 8.100(e)(2).)

DISCUSSION

On appeal, Kassam argues that the trial court abused its discretion in failing to consider her untimely opposition to the demurrer. Kassam has provided no record indicating that she asked the trial court to consider the untimely opposition, or even explained to the trial court the reasons for her untimely filing. Indeed, in the absence of a reporter's transcript of the hearing on the demurrer, we make all reasonable inferences in favor of the court's ruling (*Amato v. Mercury Casualty Co.* (1993) 18 Cal.App.4th 1784, 1794), including, in this case, that Kassam did not provide the trial court with any valid reason for exercising its discretion in her favor.

Kassam next contends that the trial court erred in not granting her relief from her default, in accordance with Code of Civil Procedure section 473. The record does not

indicate that Kassam ever sought relief from the trial court under this provision.

Arguments raised for the first time on appeal are considered waived. (*Steele v. Totah* (1986) 180 Cal.App.3d 545, 551-552.) Therefore, any right Kassam may have had to relief under Code of Civil Procedure section 473 is waived by Kassam's failure to seek such relief from the trial court.

Moreover, Kassam never argues on appeal that the trial court erred in its ruling on the merits. Thus, even if we were to conclude that the trial court erred in refusing to consider Kassam's opposition, Kassam has provided no basis for reversal of the trial court's order dismissing the action.

DISPOSITION

The judgment is affirmed. Defendants shall recover their costs on appeal.

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CROSKEY, J.

WE CONCUR:

KLEIN, P. J.

KITCHING, J.